



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
Ph: – 2210707 & 2328283 Ext: - 122

IN THE MATTER OF GRIEVANCE NO. K/E/210/234 OF 2009-2010 OF
M/S. DHRUY INTERNATIONAL, VASAI REGISTERED WITH CONSUMER
GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT
EXCESSIVE BILLING.

M/s. Dhruy International
Gala No.3 Kalpataru Industrial Estate
Chinchpada, Waliv
Vasai (East), Dist.Thane

(Here-in-after
referred
as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Dy. Executive Engineer
Vasai Road (East) Sub-Dn.
Vasai, Dist. Thane.

(Here-in-after
referred
as licensee)

- 1) Consumer Grievance Redressal Forum has been established under "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006" to redress the

grievances of consumers. This regulation has been made by the Maharashtra Electricity Regulatory Commission vide powers conferred on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, 2003. (36 of 2003).

- 2) The consumer is a L.T.-V above 20 KW consumer of the licensee with C. D. 54 KVA. The Consumer is billed as per Industrial tariff. Consumer registered grievance with the Forum on 18/3/2009 for Excessive Energy Bills. The details are as follows: -

Name of the consumer :- M/s. Dhruy International

Address: - As given in the title

Consumer No : - 001840603519

Reason of dispute: Excessive Energy Bills.

- 3). The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/253 dated 18/03/2009 to Nodal Officer of licensee. The licensee filed reply vide letter No. DYEE/VSI/ (E)/B/3133, dated 20/04/2009.

- 4) The consumer has raised these grievances before the Executive Engineer (O&M) Division, MSEDCL, Vasai Division, on 07/01/2009. The said Internal Redressal Cell did not give any hearing to the consumer & also did not send any reply resolving the said grievances to the consumer. Therefore, the consumer has registered the present grievance before this forum on 18/03/2009.

- 5). The Members of the Forum heard both the parties on 21/04/2009 @ 16.00 Hrs. in the meeting hall of the Forum's office. Shri Harshad Sheth, representative of the consumer & Shri B.D.Sidore, A.E., Shri S.B.Hatkar,

Asstt.Acctt., representatives of the licensee, attended hearing. Minutes of the hearing including the submissions made by the parties are recorded and the same are kept in the record. Submissions made by each party in respect of each grievance shall be referred while deciding each of the grievances to avoid repetition.

- 6). The following grievances raised by the consumer in its letter dated 03/01/09 sent to the concerned Executive Engineer of which copy the consumer has attached with the grievance made before this forum, arise for consideration, and considering the reply dtd. 20/04/09 with CPL filed by the licensee, record produced by the parties, and submissions made by the parties, the finding or resolution on each of such grievance is given against it, for the given reasons.
- 7). As to grievance 1 – Regarding Security Deposit”. The consumer claims that the consumer has paid Rs. 33150/- at the time of getting connection 26.5.97 for 65 HP load, but the bills were showing Deposit as Nil. Further the consumer has paid SD of Rs. 65200/- in June 08. The said amount is displayed in the bill. The licensee should verify the total amount of SD and should give credit of compound interest on it, to the consumer. The consumer also claims refund of excess SD. As against this, the licensee claims that Rs. 19500/- and Rs. 13650/- was paid by consumer as SD in May 97. The SD paid at the time of connection was not displayed in bill. The interest will be paid as per rules. Considering the average bill, the balance amount will be refunded for which the consumer should produce original receipts. Considering the above contentions of the parties, the licensee is directed to verify the correct amounts of SD from time to time

from its record and the record with consumer, display the correct amounts of SD, calculate the proper SD at this stage & refund the excess amount of SD & the interest at Bank rate of RBI on such amounts of SD at the prevailing rate, by giving it's credit to the consumer, in the ensuing bill after a period of 30 days.

- 8). As to grievance No. 2 regarding bill adjustment : The consumer claims that the licensee has added the debit bill adjustment charges of various amounts such as Rs.2386.76, Rs.3409.60 in the bills for the months Aug.07 and Sept.07 respectively. The licensee should justify such adjustments and refund if the same are not justified. The licensee has claimed that the above mentioned 1st and second amounts are of TOSE @ of 4 np p/u from Sept.05 to Feb.06 and TOSE @ of 4 NP p/u from Mar 06 to Sept.06 respectively. The CR has relied upon the order dated 24th May 2005 passed by MERC in case No. 28 of 2004 in support of his contention that the licensee has earlier refunded the TOSE charged for the above referred periods as per the above referred order, but has again charged the same as above without any further order of MERC about it. The licensee has not filed any such order of MERC passed after the above order which enabled it recharge the TOSE. In view of the facts as discussed above, the licensee is directed to obtain necessary information and give explanation as to how it has recharged TOSE as claimed particularly in reference to the order dated 24/05/2005 passed by MERC in case No. 28 of 2004, in writing to the consumer within a period of 30 days & on failure to do so, or in case of unsatisfactory explanation, refund the excess amount if any, recovered as above together with interest at the bank rate of

RBI, by giving it's credit to the consumer in the ensuing bill after 30 days.

- 9). As to grievance No. 3 - regarding refund of difference of MD based charged and HP based charges from Oct.06 to Mar 07 : The consumer has claimed refund of an amount of Rs.11,584.13 on this count as the charges of the relevant period were reverted back to the HP based tariff from MD based fix charges, due to non completion of installation of MD meters in entire Maharashtra. The licensee claims that it has refunded an amount of Rs.8065.32 in the month of May 07 and some amount in other month which will be intimated after confirmation from the higher authority. The CPL for the month May 07 does show that the licensee has given credit of Rs.8065.32 to the consumer. However, it is not mentioned in the CPL that the said amount is of the difference of MD based tariff and HP based tariff of the above referred period. The licensee has also not made clear as to in which month it has given credit of any other amount on this count to the consumer. Therefore, the licensee should again verify as to whether the above referred amount of Rs.8065.32 is of such difference and whether credit of any other amount on this count has been given to the consumer, and refund excess amount, if any, together with interest at the bank rate of RBI to the consumer by giving its credit to the consumer in the ensuing bill after a period of 30 days.
- 10). As to grievance No.4 – regarding refund of excess ASC recovered in the month of Nov.06. The consumer claims that its Benchmark consumption is 11690. Therefore 9% ASC unit come to 1257 unit, but the MSEDCL has charged ASC for 1676 units in the bill for the month Nov.06 for the billing period 3.10.06 to 03.11.06. Thus the licensee has charged excess ASC for

the said month to the consumer and therefore the consumer is entitled for refund of Rs.481.85 on this count. As against this the licensee claims that the case is under scrutiny and action will be taken, if applicable. The bills for Jan.07 and Feb.07 shows that the average consumption for the year 05 was 11690 units. Therefore, the contention of consumer that the Benchmark consumption for it is 11690 units will have to be accepted. As per the bill for the concerned month Nov.06, the consumption was 13966 units. Since as per the say of licensee, the case is already under scrutiny, the licensee should recalculate the BC for the month of Nov.06 and refund excess amount, if any, together with interest at the Bank rate of RBI at the prevailing rate, to the consumer, by giving its credit to it in the ensuing bill after a period 30 days from the date of this decision.

- 11). As to grievance No.5 – regarding refund of excess ASC recovered during the period Oct.07 to June 08: The consumer claims that the Benchmark consumption in the bills for the period Oct.07 to June 08 is shown as 6267 and as per the calculations about ASC based on the said Benchmark consumption made by it in the sheet Annexure-4, the licensee has charged excess ASC to the extent of Rs.52280.85 and therefore the licensee be directed to refund the said amount of excess ASC together with interest of Rs.2643.45, (total refund Rs.54,924.30) as shown in the sheet Annexure-4. As against this the licensee claims that the case is under scrutiny and action will be taken, if applicable. It is clear from the copies of the earlier bills such as for the months May 07, Aug.07, Sept.07, Dec.07, Jan.08, and Feb.08 that the benchmark consumption of the unit of consumer is shown in the same as 11690. It is an admitted fact that the benchmark

consumption is the monthly consumption of the concerned consumer during the billing period from Jan.05 to Dec.05 and therefore the benchmark consumption cannot change. Therefore, the licensee is directed to verify the correct benchmark consumption for the consumer and then recalculate the ASC based on such benchmark consumption for the consumer and refund excess if any, together with interest at the Bank rate of RBI to the consumer by giving its credit to it in the ensuing bill after a period of 30 days from the date of this decision.

- 12). As to grievance No.6 – regarding refund of Rs.5,886.35 from the bill of Mar 08: The consumer claims that in the bill of Mar 08, the licensee collected lump sum amount of Rs.1,00,000/-. Actual consumption was 17427 units but the licensee charged for 30600 units. Therefore the consumer has given actual bill calculation on the same as Rs.89,094.84 but in the next month, the licensee gave credit of Rs.5,018.81 only. Therefore, the licensee be directed to refund an amount of Rs.5,886.35 as that of difference. As against this, the licensee claims that the bill for Mar 08 is revised for Rs.94,977.74 in rerun against which the consumer has paid Rs.1,00,000/- on 27.3.08. The balance amount of Rs.5,018.81 has been credited to the consumer's account and the said fact can be confirmed from the CPL. Therefore, the consumer is not entitle for any refund on this count. The CPL for the month of April 08 shows that the licensee has duly mentioned about payment of Rs.1,00,000/- by the consumer on 27.3.08 and it has also given consumer a credit of Rs.5,018.8. The net bill for the month Mar 08 was Rs.94,986.45 as against which the consumer paid Rs.1,00,000/- on 27.3.08 and therefore excess paid by the consumer in the

said month has been shown to its credit as -5018.81 in the column of arrears. The said amount of credit and the net bill amount of Mar 08 makes about Rs.1,00,000/- paid by the consumer on 27.3.08. The license has not filed any document regarding the alleged revision of the bill for Mar 08 and not explained as to whether and how it has given credit of the amount reduced in such revision to the consumer. Therefore the licensee directed to verify and in case it has not given credit to the consumer of the amount by which the concerned for the month of Mar 08 was reduced in the revision, refund such amount together with interest at the bank rate of RBI , to the consumer, by giving its credit in the ensuing bill after a period of 30 days.

- 13). As to grievance No.7 regarding refund of IASC charged during in May 07:- The consumer claims that the licensee should refund incremental ASC of Rs. 861.70 charged in May 07 as per MERC order in case No.45 dt.17.9.08. As against this, the LR submits that matter is referred to higher authority and after confirmation of the same, action will be taken. The licensee is directed to verify incremental ASC charges recovered from the consumer in May 07 and refund the same as per MERC order No.45 dt.17.9.08, if not refunded earlier, alongwith interest at the Bank rate of RBI by giving its credit to the consumer in the ensuing bill after completion of 30 days from the date of this decision.
- 14) The consumer representative (CR) on the date hearing i.e. on 21/04/09 filed rejoinder dt. 21/04/09 raising some additional grievances and CR requested the Forum to consider the said grievances on the ground that the

consumer has raised the said grievances on the basis of the CPL which the licensee provided to the consumer on the date of hearing. Consumer's such request shall be considered while deciding each of such additional grievance as under :

- 15) As to grievance No. 8 regarding amounts of bill adjustments : The consumer claims that the licensee has shown the amount of Rs. 2583.34 and Rs. 1186.64 as amounts of bill adjustments in the bills for the month March 07 and January 07 resp. The licensee be directed to explain the said amounts and to refund the same, if not justified. The licensee did not file reply to the said rejoinder inspite of such undertaking by it's licensee at the time of hearing. The CPL for the month of March 07 does show such amount of Rs. 2583.34 as the amount of adjustment. However, the CPL for January 07 is not filed by the licensee and the consumer has not filed copy of the bill for the said month. Therefore, the request of consumer in respect of the said amount is rejected. However, the licensee should give details in writing to the consumer justifying the amount of bill adjustment of Rs. 2583.34 in the month of March 07 within 30 days from the date of decision in this case, and if not justified, refund the said amount together with interest at the Bank rate of RBI, by giving it's credit to the consumer in the ensuing bill after the period of 30 days from the date of this decision.
- 16) As grievance No. 9 regarding refund of MD based fixed charges for Sept. 06 : The consumer claims that the licensee has incorrectly charged MD based fixed charges in the bill for the month Sept. 06 and therefore, it be directed to refund Rs. 397.53. The CPL for the month Sep. 06 shows

that the licensee has charged Rs. 1950 as fixed charges to the consumer in the said month. The same are obviously fixed charges as per MD based tariff. The MD based tariff was earlier applied from the month of Aug. 08. Therefore, the licensee is directed to refund the difference between MD based tariff fixed charges and HP based tariff fixed charges for the month of Sept.06 together with interest at the Bank rate of RBI, by giving it's credit to the consumer in the ensuing bill after the period of 30 days from the date of this decision.

- 17) As to grievance No. 10 regarding refund of excess ASC recovered during the period from Oct. 07 to June 08 : In continuation with original grievance No. 5, the consumer claims that the CPL for the months April, May and June 2005 shows that there was no consumption and hence no production during the said period of three months. Therefore, as per MERC clarificatory order dated 24/08/07, MSEDCL's circular No. 62, dt. 10/09/07 and Hon. Ombudsman's order dt. 30/09/08 in representation No. 57 of 08, the total consumption of 75564 units shown in the bills for the months from Feb. 05 to Jan. 06 should be divided by nine months and hence the Benchmark consumption (BC) comes to 8840 and therefore, the amount of Rs. 24,807.15 as per Annexure-1 has been recovered in excess by the licensee treating the BC as lesser than 8840 units and therefore, the licensee be directed to refund the said amount to the consumer. The licensee did not file reply to this grievance, though it's representative undertook to do so at the time of hearing. The licensee representative (LR) however strongly oppose such a grievance and submits that the BC has

been correctly calculated and the consumer has not produced any record to show the closure of it's unit for three months, for the purposes of maintenance or other purposes and therefore, it's request for any such refund be rejected. Clause 6 in the MSEDCL's Comm. Circular No. 62, dt. 10/09/07 reads as under :

“vi. Reference bill period in cases of industries that have undergone closure during the reference period of January to December 2005.

The Commission has clarified that in case of closure of any industrial unit for a period of greater than one month during the period January 2005 to December 2005 for maintenance and other purposes, and documentary evidence of the same is provided to the MSEDCL, then this period will be excluded while computing the monthly average for the purposes of levy of ASC”.

The consumer in the instant case, did not produce any documentary evidence to show that it's unit was closed for maintenance or for other purposes for the said three months. Mere low consumption during the concerned period is not sufficient to hold that the concerned unit was closed for maintenance or for other purposes during the said three months. Therefore, the request of consumer for refund of Rs. 24,807.15 on such ground is rejected.

- 18) As to grievance No. 11 regarding refund of DPC and interest recovered in June 2008 : The consumer claims that the licensee collected Rs. 65,200 as Security Deposit (SD) in June 08. While appropriating amount from it's main account, the licensee has collected Rs. 2933 by way of DPC and

interest and consumer suffered loss of Rs. 930 by loosing PPD (prompt payment discount) and therefore, as per the order dated 23/03/09 passed by Hon. Ombudsman in representation No. 23 of 2009, licensee be directed to refund the said amount. The licensee did not file any reply to this grievance though it's representative undertook to file reply at the time of hearing. However, the CPL for the month of June 2008 does not show charging of such amount of Rs. 2933 as DPC and interest. The consumer also did not file copy of the bill for the said month June 2008. However, CPL for the months April 08 to June 08 does show such appropriation of Rs. 65,200/- out of the amount of Rs. 01,00,000/- deposited on 27/03/08, towards the S.D. Therefore, the licensee is directed to verify as to whether it has charged DPC and interest of Rs. 2933/- and the consumer lost PPD of Rs. 930/- due to such appropriation of the amount deposited in pursuance to the bill for electric charges, and if so, refund the said amounts of DPC and interest and also the amount of prompt payment discount which the consumer may have lost due to such appropriation, to the consumer as observed by Hon. Ombudsman in order dated 26/03/09 in representation No. 23 of 2009 by giving it's credit to the consumer in the ensuing bill after 30 days from the date of this decision.

- 19). In view of the findings on the grievances of the consumer as above, the forum unanimously passes the following order.

O-R-D-E-R

- 1) The consumer's grievance application is partly allowed.

- 2) The licensee to comply the directions given in above para Nos. 07 to 13, 15,16 and 18.
- 3) The grievance No. 10 is rejected.
- 4) The Compliance should be reported to the forum within 90 days from the date of decision.
- 5) The Consumer can file representation against this decision with the Ombudsman at the following address.

“Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission,606/608,KeshavBuilding,BandraKurlaComplex,Mumbai 51”

Representation can be filed within 60 days from the date of this order.

- 4). Consumer, as per section 142 of the Electricity Act, 003,can approach Maharashtra Electricity Regulatory Commission at the following address:-

“Maharashtra Electricity Regulatory Commission,13th floor, World Trade Center, Cuffe Parade, Colaba,Mumbai 05”

for non-compliance, part compliance or delay in compliance of this decision issued under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003”

Date : 18/05/2009

(Sau V. V. Kelkar)
Member
CGRF Kalyan

(R.V.Shivdas)
Member Secretary
CGRF Kalyan

(M.N.Patale)
Chairman
CGRF Kalyan